



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/621,118

07/15/2003

Robert D. Harris

RDH-42595

9088

26252

7590

06/14/2006

KELLY LOWRY & KELLEY, LLP  
6320 CANOGA AVENUE  
SUITE 1650  
WOODLAND HILLS, CA 91367

EXAMINER

MATHEW, FENN C

ART UNIT

PAPER NUMBER

3764

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/621,118	Applicant(s) HARRIS, ROBERT D.	
	Examiner Fenn C. Mathew	Art Unit 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☒ Claim(s) 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>07/15/03</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 16 is objected to because of the following informalities: The phrase 'the control device' should read --the controller-- in order to overcome the lack of antecedent basis. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Sollo (U.S. 5,603,677). Referring to claim 1, Sollo discloses a mobile body suspension device comprising a frame (38) having a plurality of wheels (36), a body lift system including a harness (98) being selectively adjustable by a user therein (see column 9, lines 9-25 and col. 6, lines 23-29), a handlebar (28) disposed adjacent to the user and extendidn to one ore more of the wheels for selectively steering the device (note handlebars extend to wheels via (50) and (42), in as much as Applicant's handlebars 'extend' toward the wheels the handlebar of Sollo extends towards the wheels, and furthermore the handlebars can be used to 'selectively steer' the device forwards or backwards), and a brake system including a brake operably connected to at least one

Art Unit: 3764

wheel and a brake actuator accessible to the user (col. 3, lines 33-38). Referring to claim 2, Sollo teaches as broadly construed, an arching member (top portion of frame (38) defines an arch) extending between generally parallel lower members (42) having the wheels operably coupled thereto. Referring to claim 3, Sollo teaches the body lift system including a support frame (54) attached to the arching member above the harness. Referring to claim 11, absent further limitation, and as best understood, Sollo teaches the device with wheels capable for use outdoors on uneven surfaces.

4. Claims 12, 14-17, and 20 are rejected under 35 U.S.C. 102(a) as being anticipated by Martin et al. (U.S. 6,302,828). Referring to claim 12, Martin discloses a mobile suspension exercise device, comprising a frame (4) having a plurality of wheels (2), a body lift system (9) including a cable of adjustable length (see col. 4, lines 12-45) extending from the frame and coupled to a harness (col. 3, lines 43-46), a motor operably coupled to the cable (col. 6, lines 12-20), a controller (56) accessible to a user in the harness for actuating the motor to selectively raise and lower the harness to unload and load the weight on the user's feet while operating the device, and a handlebar (5) extending to one or more of the wheels for selectively steering the device (note handlebars extend to wheels via (1) and the perpendicularly attached member, therefore, in as much as Applicant's handlebars 'extend' toward the wheels the handlebar of Martin extends towards the wheels, and furthermore the handlebars can be used to 'selectively steer' the device forwards or backwards). Referring to claim 14, as broadly interpreted, Martin discloses the frame comprising an arching member (top portion of frame defines an arching member) extending between generally parallel lower

Art Unit: 3764

members (1) having wheels (2) operably coupled thereto. Referring to claim 15, Martin discloses a support frame (23) attached to the arching member above the harness and supporting at least a portion of the cable (rope). Referring to claim 16, Martin discloses a winch (crank shaft) operably connected to the control device, motor and the cable for adjusting the length of the cable (col. 6, lines 11-35). Referring to claim 20, absent further limitation, and as best understood, Martin teaches the device with wheels capable for use outdoors on uneven surfaces.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4-7 and 13 rejected under 35 U.S.C. 103(a) as being unpatentable over Martin in view of Sollo. Referring to claims 4-5, Martin teaches a mobile suspension exercise device, comprising a frame (4) having a plurality of wheels (2) a body lift system (9) including a harness (col. 3, lines 43-46) extending from the frame and being selectively adjustable by a user therein (col. 4, lines 45-60), a handlebar (5) extending to one or more of the wheels for selectively steering the device (note handlebars extend to wheels via (1) and the perpendicularly attached member, therefore, in as much as Applicant's handlebars 'extend' toward the wheels the handlebar of Martin extends towards the wheels, and furthermore the handlebars can be used to 'selectively steer'

Art Unit: 3764

the device forwards or backwards), and a cable of adjustable length (col. 6, lines 11-35). Martin fails to teach a brake system including a brake operably connected to at least one wheel and a brake actuator accessible to the user. Sollo teaches the desirability of providing at a brake system operably connected to at least one wheel and a brake actuator accessible to the user (col. 3, lines 33-38). It would have been obvious to one of ordinary skill in the art at the time of invention to provide the Martin device with a brake system as taught by Sollo in order to prevent unwanted rolling of the device. Referring to claim 5, Martin teaches a motor operably coupled to the cable (col. 6, lines 12-20). Referring to claim 6, Martin teaches a winch (crank shaft) operably connected to the motor and the cable for adjusting the length of the cable (col. 6, lines 11-35). Referring to claim 7, Martin teaches a controller accessible to the user for controlling the motor (56).

Referring to claim 13, Martin teaches the claimed invention except for a brake system including a brake operably connected to at least one wheel and a brake actuator accessible to the user. Sollo teaches the desirability of providing at a brake system operably connected to at least one wheel and a brake actuator accessible to the user (col. 3, lines 33-38). It would have been obvious to one of ordinary skill in the art at the time of invention to provide the Martin device with a brake system as taught by Sollo in order to prevent unwanted rolling of the device.

7. Claims 8 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin in view of Sollo as applied to claims 4 and 12 above, and further in view of Hall (U.S. 5,667,461). Referring to claims 8 and 17, Martin as modified by Sollo teaches the

Art Unit: 3764

claimed invention, but fails to teach a spring interconnecting the harness and the cable. Hall teaches in column 5, lines 12-30, the desirability of providing a spring to interconnect a cable and harness in an ambulatory assembly. It would have been obvious to one of ordinary skill in the to provide the harness of Martin with a spring interconnecting the harness to the cable as taught by Hall in order to maintain constant tension along the assembly.

8. Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sollo in view of Higer (U.S. 5,526,893). Referring to claim 9, Sollo teaches the claimed invention except for a motor operably coupled to a wheel for propelling the device. Higer teaches in column 8, lines 35-50, that it is desirable to provide a motor operably coupled to a wheel in a physical therapy device in order to aid in propelling the device. It would have been obvious to one of ordinary skill in the art at the time of invention to provide the Sollo device with a motor as taught by Higer in order to help aid a disabled or rehabilitating person in propelling the walker. With respect to claim 10 Sollo does not teach a throttle control switch, however, note that Higer teaches in column 8, lines 6-15 a throttle control switch (power control switch means) capable of varying speeds. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to provide Sollo with a throttle switch to control speed as taught by Higer in order to allow user desired adjustment of power/speed.

9. Claims 18-19 and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin in view of Sollo and further in view of Higer (U.S. 5,526,893). The modified Martin teaches the claimed invention, but lacks a motor operably coupled

Art Unit: 3764

to a wheel for propelling the device. Higer teaches in column 8, lines 35-50, that it is desirable to provide a motor operably coupled to a wheel in a physical therapy device in order to aid in propelling the device. It would have been obvious to one of ordinary skill in the art at the time of invention to provide the modified Martin device with a motor as taught by Higer in order to help aid a disabled or rehabilitating person in propelling the walker. With respect to claim 10, Martin does not teach a throttle control switch, however, note that Higer teaches in column 8, lines 6-15 a throttle control switch (power control switch means) capable of varying speeds. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to provide Martin with a throttle switch to control speed as taught by Higer in order to allow user desired adjustment of power/speed.

Referring to claim 21, Martin discloses a mobile suspension exercise device, comprising a frame (4) having a plurality of wheels (2) capable of traveling on uneven surfaces, a body lift system (9) including a cable of adjustable length (see col. 4, lines 12-45) extending from the frame and coupled to a harness (col. 3, lines 43-46), a motor operably coupled to the cable (col. 6, lines 12-20), a controller (56) accessible to a user in the harness for actuating the motor to selectively raise and lower the harness to unload and load the weight on the user's feet while operating the device, and a handlebar (5) extending to one or more of the wheels for selectively steering the device (note handlebars extend to wheels via (1) and the perpendicularly attached member, therefore, in as much as Applicant's handlebars 'extend' toward the wheels the handlebar of Martin extends towards the wheels, and furthermore the handlebars can



Art Unit: 3764

be used to 'selectively steer' the device forwards or backwards). Martin fails to teach a brake system including a brake operably connected to at least one wheel and a brake actuator accessible to the user. Sollo teaches the desirability of providing a brake system operably connected to at least one wheel and a brake actuator accessible to the user (col. 3, lines 33-38). It would have been obvious to one of ordinary skill in the art at the time of invention to provide the Martin device with a brake system as taught by Sollo in order to prevent unwanted rolling of the device. Martin further fails to teach a motor operably coupled to a wheel for propelling the device. Higer teaches in column 8, lines 35-50, that it is desirable to provide a motor operably coupled to a wheel in a physical therapy device in order to aid in propelling the device with a throttle switch for controlling the motor (col. 8, lines 6-15). It would have been obvious to one of ordinary skill in the art at the time of invention to provide the modified Martin device with a motor and throttle switch as taught by Higer in order to help aid a disabled or rehabilitating person in propelling the walker while allowing the user to control the speed. Referring to claim 22, as broadly interpreted, Martin discloses the frame comprising an arching member (top portion of frame defines an arching member) extending between generally parallel lower members (1) having wheels (2) operably coupled thereto. Referring to claim 23, Martin discloses a support frame (23) attached to the arching member above the harness and supporting at least a portion of the cable (rope). Referring to claim 24, Martin discloses a winch (crank shaft) operably connected to the control device, motor and the cable for adjusting the length of the cable (col. 6, lines 11-35).

Art Unit: 3764

10. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martin in view of Sollo and Higer as applied to claim 21 above, and further in view of Hall. The modified Martin teaches the claimed invention but fails to teach a spring interconnecting the harness and the cable. Hall teaches in column 5, lines 12-30, the desirability of providing a spring to interconnect a cable and harness in an ambulatory assembly. It would have been obvious to one of ordinary skill in the to provide the harness of Martin with a spring interconnecting the harness to the cable as taught by Hall in order to maintain constant tension along the assembly.

### ***Conclusion***

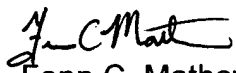
11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shaffer et al. (U.S. 4,619,462) teaches a cycle apparatus propelled by a user. Rodenborn (5,168,947) and Perkins (4,280,578) disclose examples of motorized walkers. Ethridge (4,985,947) and Mennesson (4,463,817) provide other examples of ambulating walkers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fenn C. Mathew whose telephone number is (571) 272-4978. The examiner can normally be reached on Monday - Friday 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3764

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Fenn C. Mathew  
June 10, 2006